Eight Mile Style, LLC et al v. Apple Computer, Incorporated Doc. 4

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

EIGHT MILE STYLE, LLC and
MARTIN AFFILIATED, LLC

Plaintiffs,

vs Case No. 2:07-cv-13164

APPLE COMPUTER, INC. and
INTERVENOR AFTERMATH RECORDS
d/b/a AFTERMATH ENTERTAINMENT,

Defendants.
_______________________________________/

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PLAINTIFFS' MOTION REQUESTING AN EX PARTE ORDER TO EXTEND TIME FOR PLAINTIFFS' RESPONSE TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT AND BRIEF IN SUPPORT OF THEREOF

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NOW COME plaintiffs, Eight Mile Style, LLC ("Eight Mile") and Martin Affiliated, LLC ("Martin") (collectively "plaintiffs"), by and through their counsel, and move this Honorable Court to issue an ex parte order which grants an extension of time for plaintiffs to respond to defendants' motion for summary judgment, and states as follows:

1. Defendants filed a motion for summary judgment on May 5, 2008.

2. Pursuant to LR 7.1(d)(1) plaintiffs' response would be due May 27, 2008.

3. Depositions are continuing in this case and are currently scheduled to be completed on or before June 2, 2008.

4. There have been approximately eight (8) depositions taken thus far in this case with several more to be taken during the next two weeks.

5. In order for plaintiffs to fully and completely respond to defendants' motion for summary judgment, it is necessary to complete the depositions, refer to relevant portions of the transcripts and attach those relevant portions as exhibits to plaintiffs' brief.

6. Defendant Aftermath Records has produced nearly 60,000 pages of documents in connection with this case and the review time necessary with respect to these documents in order to properly respond to defendants' motion for summary judgment is significant and warrants the granting of an extension as well.

7. There was a conference between attorneys in which plaintiffs' counsel explained the nature of this motion and requested but did not obtain concurrence in the relief sought. Plaintiffs requested from defendants a two (2) or three (3) week extension; a three week extension would make plaintiffs' response due on or before June 17, 2008. Defendants have agreed to a one (1) week extension but this will be insufficient time for plaintiffs to obtain

deposition transcripts, review documents and incorporate them into their response brief.

8. There will be no prejudice to defendants in granting such an extension as the current dispositive motion cut-off has been set by the Court for August 4, 2008. An ex parte order is necessary to grant the relief prior to the current due date of May 27, 2008 (see proposed ex parte order attached hereto as Exhibit 1).

9. Plaintiffs have no objection to defendants being granted an extension for their reply brief as well.

WHEREFORE, for all the above-stated reasons, plaintiffs respectfully request that this Honorable Court issue an ex parte order which grants them a three (3) week extension to file their response brief until June 17, 2008.

Respectfully submitted,
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BRIEF IN SUPPORT OF PLAINTIFFS' MOTION TO EXTEND TIME FOR PLAINTIFFS' RESPONSE TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

In support of plaintiffs' motion to extend time for plaintiffs' response to defendants' motion for summary judgment, plaintiffs rely on FRCP 6(b)(1)(A) and LR 7.1(f) permitting this Honorable Court to enter an ex-parte order specifying the time within which such brief and additional documents must be filed.

Respectfully submitted,
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Certificate of Service

I hereby certify that on May 21, 2008, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to all participating attorneys.

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